UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,896	08/22/2001	Philip C. Nestoryak	END920010006US1	8177

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EXAMINER
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ART UNIT	PAPER NUMBER
2191	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	09/934,896	NESTORYAK, PHILIP C.
	Examiner	Art Unit	
	Ted T. Vo	2191	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04 December 2006, Appeal Brief</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-35</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-35</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is REOPENED in response to appeal brief filed 12/12/06.

Claims 1-35 are pending in the application.

Response to Argument

2.   YaST is introduced by Novell where Novell defines "control file as,

- Control files are the configuration files that define all the aspects of your installation.
- Rules can be used to configure a system based on system attributes by merging multiple control
files
- Classes are defined in a control file, and represent a configuration which is typical for a group of
systems

In the Hohndel reference, it mixed the discussion of control file and configuration file; however, it

discloses a principle is that in order to install a version of SUSE Linux, it needs a control file. Hohndel

provides a control file (customized configuration file) used to install SUSE 6.2 into a standard PC.

Thus, the configuration files or the mentioning control file seen in Holndel are the same.

New reference IBM has been also added to support that, providing a control/configuration file or

providing a plurality of control/configuration files has been admitted by IBM as using the YAST tools. The

IBM reference clearly shows it admits using the YaST to build multiple control/configuration files, each is

used for a particular computer that wants to be installed with a Linux operating system software version.

Reality is if an administrator can generate a control file for a standard PC, then he knows how to generate

another control file for a Workstation or a MAC computer, or a mainframe. Each control file is used to

configure hardware elements associated with such a computer for installation.

It is improper to claim a method that is done exactly the same as the YaST has done. In the

meantime, it is also improper amending with a limitation that is not clearly and adequately disclosed in the

specification and then arguing the dissimilarity. For example, the specification (Pages 3-4), at the

summary says

> "According to a first aspect of the present invention, a method for loading a software platform
> onto a computer system is provided. The method comprises the steps of: (1) providing a
> control file having entries of computer system identifiers (Note by examiner: Applicants' claim
> is contradicted to what it is in its specification); (2) designating a computer system and a
> software platform using an interface..."

Even, Applicants have cited in the specification from their brief (Page 2),

> "Claim 1 claims a method for installing a software platform onto a computer system,
> comprising the following steps: providing a plurality of control files (see e.g., page 17, lines 5-
> 6; page 13, line 21 through page 15, line 17; Figs. 1 and 2, item 22), each control file having
> entries of computer system identifiers pertaining to a particular software platform (see e.g.,
> page 11, line 23 through page 12, line 6; page 13, line 21 through page 15, line 17; Figs. 1
> and 2, item 22)",

at page 17, line 5-6, it describes, "First step 102 of method is to provide a control file having

entries, and at p. 13:21 to p.15:17, it is only "control file **52**" . The reference number "**52**" indicated that

there is only **one type** of control.

It is supposed that if Hohndel's configuration/control file call "100", then even he uses simple a

command "copy" or "cut/paste" to make multiple files then each file also calls "configuration/control 100".

In computer technology, the duplication of a file in to thousands or millions of files is normal, and

it is done commonly. For example, the Examiner can duplicate his office action into thousands of office

actions. A Claimed feature that is clearly used commonly in the public would not convince the public as a

patent infringement.

In the specification, sometime it implicitly shows "control file" in plural, but it fails to disclose "providing a

plurality of control files" (emphasis added). Since the Applicants do not clearly and adequately disclose A

CLAIMED SUBJECT MATTER, and use it as for appeal, such a feature would be subjected to 112 first

and second paragraphs.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

4.   Claims 1-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to

particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1-35: The Claims recite "providing a plurality of control files" clearly is contradicted to the

specification that describes only "providing a control file". Since the claims attempt to use a different

language used in the reference and then participates in an argument, it should use the claimed language

consistent to the specification. Accordingly, it does not know what its function and what its purpose are.

Recitation "providing a plurality of control files" is indefinite.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for

the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed
> publication in this or a foreign country, before the invention thereof by the applicant for a patent.
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public
> use or on sale in this country, more than one year prior to the date of application for patent in the United
> States.

6.   Claims 1-35 are rejected under 35 U.S.C. 102(a) as being anticipated by YaST tool (Hereinafter:

YaST), as disclosed by Hohndel et al, "Automated Installation of Linux Systems Using YAST", 1999

(Hereinafter: YaST1), and by RedBooks, "e-Business Intelligence: Leveraging DB2 For Linux on S/390"

(Hereinafter: YaST2). .

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per Claim 1: YaST discloses,

A method for installing a software platform onto a computer system, comprising the following steps:

providing a plurality of control files, each control file having entries of computer system identifiers system

identifiers pertaining to a particular software platform (See YaST2: p. 68; and refer to SUSE Y.XX where

Y is smaller than 7, and XX is two-digits integer)

designating, by a user (YaST 1, See User/Administrator in the reference), *a computer system and a*

software platform of a plurality of software platforms to be installed on the designated computer system

using a graphical user interface (refer to YaST tool); *and*

querying the control file of the particular software platform corresponding to the software platform

designated by the user to identify an entry having computer system identifiers that pertain to the

designated computer system (YaST 1: See p. 262, right col., paragraph 6, "now the control file...", see

263, section IP Definition and Installation Source).

As per Claim 2: YaST discloses, *The method of claim 1, further comprising the subsequent steps of:*

creating a boot disk; and loading the designated software platform onto the designated computer system

using the boot disk (YaST 1: See p.262, text under "Changes To Be Done On The Boot Disk").

As per Claim 3: YaST discloses, *The method of claim 1, wherein the designating step comprises the*

steps of: entering particular computer system identifiers into the interface; and selecting a particular

software platform using the interface (YaST 1: See p.262, text under "Changes To Be Done On The Boot

Disk": In this reference the selected software platform is "Linux").

As per Claim 4: YaST discloses, *The method of claim 3, wherein the entering step comprises the steps of:*

entering a particular computer model identifier into the interface; and entering a particular computer

submodel identifier into the interface (YaST 1: See whole p.263).

As per Claim 5: YaST discloses, *The method of claim 1, wherein the entries in the control file further*

comprise support data (YaST 1: See whole p.263: Examiner note: limitation recites only mere data in a

file).

As per Claim 6: YaST discloses, *The method of claim 5, wherein the support data comprises licensing data and technical data* (YaST 1: See whole p.263: Examiner note: limitation recites only mere data in a file).

As per Claim 7: YaST discloses, *The method of claim 5, further comprising the step of displaying the support data from the identified entry* (YaST 1: All configuration data shown in p. 262-263 present means for displaying. Furthermore see "Linux": It should be note that all Windows has means for displaying).

As per Claim 8: YaST discloses, *The method of claim 7, wherein the designated software platform is installed onto the computer system based upon the support data* (YaST 1: See whole p.263: see title).

As per Claim 9: YaST discloses claim 9 (See rationale discussed in claim 1 above).

As per Claim 10: YaST discloses, *The method of claim 9, further comprising the step of displaying the support data corresponding to the identified entry* (YaST 1: See p.263. the content in the control file: e.g. displaying).

As per Claim 11: YaST discloses, *The method of claim 10, wherein the software platform is installed based upon the displayed support data* (In this case: refer the term "Installation of Linux").

As per Claim 12: YaST discloses, *The method of claim 9, wherein the support data comprises licensing data and technical data* (YaST 1: See p.263, the content in the control file).

As per Claim 13: YaST discloses, *The method of claim 9, wherein the computer system identifiers comprise a computer model identifier and a computer sub model identifier* (YaST 1: See p.263, the content in the control file includes the settings such as AUTO_NET, AUTO NAMESERVER, AUTO_NAME, etc.).

As per Claim 14: YaST discloses claim 14 (See rationale discussed in claim 1 above).

As per Claim 15: YaST discloses, *The method of claim 14, wherein the support data comprises licensing data and technical data* (YaST 1: p. 263, see the information in the control file including the settings).

As per Claim 16: YaST discloses Claim 16 (See rationale discussed in claim 1 above).

As per Claim 17: YaST discloses, *The system of claim 16, wherein the interface comprises: an entry system for entering computer system identifiers; and a selection system for selecting a software platform* (YaST 1: See p. 263, information in control file and settings).

As per Claim 18: YaST discloses, *The system of claim 16, wherein the computer system identifiers comprise a computer model identifier and a computer sub model identifier* (YaST 1: See p. 263, information in control file and settings).

As per Claim 19: YaST discloses, *The system of claim 16, wherein the control file comprises entries, and wherein each entry includes computer system identifiers and support data* (YaST 1: See p. 263, information in control file and settings).

As per Claim 20: YaST discloses, *The system of claim 19, further comprising a display system for displaying the support data from the identified entry* (YaST 1: See p. 263, information in control file and settings are displayable).

As per Claim 21: YaST discloses, *The system of claim 19, wherein the selected software platform is loaded onto the computer system based upon the displayed support data* (In this case, refer to installation disclosed in the reference).

As per Claim 22: YaST discloses, *The system of claim 16, wherein the selected software platform is an operating system* (In this case, refer to Linux, an operating system).

As per Claim 23: YaST discloses Claim 23 (See Examiner's rationale addressed in Claim 16).

As per Claim 24: YaST discloses Claim 24, *wherein the entry system and the selection system comprise an interface* (See Examiner's rationale addressed in Claim 17).

As per Claim 25: YaST discloses Claim 25, *wherein the computer system identifiers comprise a computer model identifier and a computer submodel identifier* (See Examiner's rationale addressed in Claim 18).

As per Claim 26: YaST discloses Claim 26, *wherein the control file comprises entries, and wherein each entry includes a computer model identifier, a computer submodel identifier, and support data.* (See Examiner's rationale addressed in Claim 19).

As per Claim 27: YaST discloses Claim 27, *further comprising a display system for displaying the support data from the identified entry* (See Examiner's rationale addressed in Claim 20).

As per Claim 28: YaST discloses Claim 28, *wherein the selected software platform is installed onto the computer system based upon the displayed support data* (See Examiner's rationale addressed in Claim 8).

As per Claim 29: YaST discloses Claim 29 (See Examiner's rationale addressed in Claims 16, 20).

As per Claim 30: YaST discloses Claim 30 (See Examiner's rationale addressed in Claim 16).

As per Claim 31: YaST discloses Claim 31 (See Examiner's rationale addressed in Claim 17).

As per Claim 32: YaST discloses Claim 32 (See Examiner's rationale addressed in Claim 18).

As per Claim 33: YaST discloses Claim 33 (See Examiner's rationale addressed in Claim 19).

As per Claim 34: YaST discloses Claim 34 (See Examiner's rationale addressed in Claim 20).

As per Claim 35: YaST discloses Claim 35 (See Examiner's rationale addressed in Claim 16).
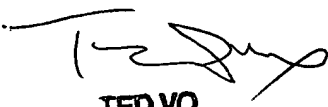

Conclusion

7.   Any inquiry concerning this communication or earlier communications from the examiner should

be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be

reached on 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei

Y. Zhen can be reached on (571) 272-3708.

The facsimile number for the organization where this application or proceeding is assigned is the

Central Facsimile number **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application should be directed to

the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may

be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status information for

unpublished applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTV
March 16, 2007   TED VO
                                                      PRIMARY EXAMINER
                                                 TECHNO. ·Y CENTER 2100